

will rank each applicant by utilizing criteria described below. In order to qualify, applicants must meet criterion 1 and/or 5 and not score zero on criteria 2, 3, or 4.

(1) The presence of an actual or potential health threat posed to group members by the site (this criterion can be met by establishing a demonstrable threat to members' health or a reasonable belief that the site poses a substantial threat to their health) (30 points);

(2) The applicant best represents groups and individuals affected by the site (20 points);

(3) The identification of how the group plans to use the services of a Technical Advisor throughout the Superfund response action (20 points);

(4) The demonstrated intention and ability of the applicant to inform others in the community of the information provided by the Technical Advisor (20 points); and

(5) The presence of an actual or potential economic threat or threat of an impaired use or enjoyment of the environment to group members that is caused by the site (this criterion can be met by establishing a demonstrable economic or environmental threat to group members or a reasonable belief that the site poses a substantial economic or environmental threat) (10 points).

§ 35.4040 Notification process.

(a) Groups wishing to apply for a TAG should first submit a Letter of Intent (LOI) to EPA. EPA will respond in writing to an LOI. A grant application submitted by a community group without having first submitted an LOI will fulfill the LOI requirement, thus initiating the notification process.

(b) Upon receipt of the first LOI, EPA will undertake certain activities depending on the schedule for work at the site:

(1) If commencement of the remedial investigation or a removal action is not underway or scheduled to begin, EPA will advise the group in writing that grant applications for the site are not yet being accepted. EPA may informally notify other interested groups that it has received an LOI; or

(2) If a response action is already underway or scheduled to begin, EPA may conduct mailings and/or meetings, in addition to the required public notice, to provide formal notice to other interested parties that a grant for the site soon may be awarded. These formal notification activities will generally be conducted far enough in advance of the start of the response action to allow time for groups to consolidate, apply for and receive a grant award, and procure a Technical Advisor before work commences at the site.

(c) Other potential applicants will have 30 days to contact the original applicant to form a coalition. If the community groups are unable to form a coalition, they must notify EPA within the 30 days. EPA will then accept separate applications from all interested groups for an additional 30-day period. EPA may consider written requests for extensions of this time. If there is a qualified applicant, a grant will be awarded from among the competing applications based on the evaluation criteria described in § 35.4035. The schedule for response activities at a site will not be affected by the TAG application process.

§ 35.4045 Submission of application.

(a) After meeting the LOI requirement, the applicant must then submit a TAG application on SF-424.

(b) An applicant must submit a budget clearly showing the proposed expenditure of funds, how it will provide the cash and/or in-kind contributions to meet the "match" requirement, and how the funds and other resources, including the "match" will be used to complete the TAG project. As part of the application process, the applicant must submit the following certifications:

- (1) Drug-Free Workplace,
- (2) Debarment, Suspension, and Other Responsibility Matters, and
- (3) Anti-Lobbying (if the grant is \$100,000 or more).

§ 35.4050 Timing of award.

An award of a TAG will be made no earlier than the start of the response action. Grants to qualified applicants could be delayed depending upon the

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availability of funds for the Superfund program.

§ 35.4055 Ineligible activities.

The following activities are ineligible for assistance under this program:

(a) Litigation or underwriting legal actions such as paying for attorney fees or paying for the time of the Technical Advisor to assist an attorney in preparing a legal action or preparing for and serving as an expert witness at any legal proceeding regarding or affecting the site;

(b) Political activity and lobbying in accordance with OMB Circular A-122;

(c) Other activities inconsistent with the cost principles stated in OMB Circular A-122, "Cost Principles for Non-Profit Organizations";

(d) Tuition or other expenses for recipient group members or Technical Advisors to attend training, seminars or courses, except for required Health and Safety training for the Technical Advisor to allow access to the local Superfund site, provided written permission is obtained in advance from the Regional EPA Office. Training may be approved for one time only at an amount not to exceed \$1,000.00;

(e) Any activities or expenditures for recipient group members' travel;

(f) Generation of new primary data such as well drilling and testing, including split sampling;

(g) Reopening final Agency decisions such as the Records of Decision or conducting disputes with the Agency in accordance with its dispute resolution procedures set forth at 40 CFR part 30, subpart L; and

(h) Epidemiological or health studies, such as blood or urine testing.

§ 35.4060 Eligible activities.

TAGs may be used to obtain technical assistance in interpreting information with regard to the nature of the hazard, remedial investigation and feasibility study, record of decision, remedial design, selection and construction of remedial action, operation and maintenance, or a significant removal action at a facility that is listed on the NPL or proposed for listing and at which a response action has begun. TAGs shall be used to fund activities that will contribute to the public's

ability to participate in the decision-making process by improving the public's understanding of overall conditions and activities.

§ 35.4065 Technical advisor's qualifications.

(a) A Technical Advisor must possess the following credentials:

(1) Demonstrated knowledge of hazardous or toxic waste issues;

(2) Academic training in a relevant discipline (e.g., biochemistry, toxicology, environmental sciences, engineering); and

(3) Ability to translate technical information into terms understandable to lay persons.

(b) A Technical Advisor should possess the following credentials:

(1) Experience working on hazardous or toxic waste problems;

(2) Experience in making technical presentations;

(3) Demonstrated writing skills; and

(4) Previous experience working with affected individuals or community groups or other groups of individuals.

§ 35.4066 Procurement.

(a) *Competition.* (1) The recipient must provide maximum open and free competition.

(2) Recipients must not unduly restrict or eliminate competition.

(3) The individual(s) developing the specifications will be excluded from competition for the Technical Advisor and/or Grant Administrator position.

(b) *Documentation.* Recipients must document all procurement activities with written records that furnish reasons for decisions.

(c) *Cost.* (1) The recipient must determine that all costs are reasonable.

(2) The recipient must conduct a cost analysis of all contracts over \$25,000 and all change orders regardless of dollar value.

(d) *Debarment.* Recipients and contractors must not make any contract at any time to anyone who is on the "List of Parties Excluded from Federal Procurement or Nonprocurement Programs."

(e) *Recipient responsibility.* (1) The recipient is responsible for the settlement and satisfactory completion of all contractual and administrative